

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

| | | |
|--------------------------------|---|-------------------|
| AILEEN JOHNSON and SARAH |) | |
| BRYANT, |) | |
| |) | CIVIL ACTION FILE |
| Plaintiffs, |) | NO. |
| |) | |
| v. |) | |
| |) | |
| WADDLE TRUCKING OF |) | |
| MISSISSIPPI, INC. d/b/a WADDLE |) | |
| TRUCKING, INC.; NATIONAL |) | |
| CASUALTY COMPANY; XYZ |) | |
| CORPORATION; and JOHN DOE, |) | |
| |) | |
| Defendants. |) | |

NOTICE OF REMOVAL

COMES NOW defendant National Casualty Company and, pursuant to 28 U.S.C. §§ 1441 and 1446, files this notice of removal within the time prescribed by law, showing the Court as follows:

1.

On February 23, 2022, plaintiffs filed a complaint in the State Court of Clayton County, Georgia Civil Action No. 2023CV00460, which county is within the Atlanta Division of the Northern District of Georgia.

2.

A true and correct copy of all process, pleadings, and orders filed in connection with this action is attached hereto as Exhibit A. Defendant has no knowledge of any other process, pleadings, or orders served in connection with this action, other than those attached hereto.

3.

This Court has original jurisdiction over the above-referenced case under 28 U.S.C. § 1332.

4.

There is complete diversity among the parties.

5.

Plaintiff Aileen Johnson is a citizen of the State of Georgia. (Georgia Motor Vehicle Crash Report, attached hereto as Exhibit B.) Plaintiff Sarah Bryant is a citizen of the State of Georgia. (Exhibit B.) Defendant National Casualty Company is incorporated in the State of Wisconsin with its principal place of business in the State of Arizona. (Compl., ¶ 3; *see also* Georgia Secretary of State, *Business Search results* attached hereto as Exhibit C.) Defendant Waddle Trucking of Mississippi, Inc. is incorporated in the State of Mississippi with its principal place of business in the State of Mississippi. (Compl., ¶ 2)

6.

The citizenship of the unnamed, fictitious defendants – XYZ Corporation and John Doe, – "shall be disregarded." 28 U.S.C. § 1441(b); *Smith v. Comcast Corp.*, 786 Fed. App'x 935, 939 (11th Cir. 2019) ("Even if the fictitious defendants were likely not diverse, their citizenship must be disregarded for purposes of diversity jurisdiction.") (citation marks omitted).

7.

The amount in controversy meets the jurisdictional requirements. Each plaintiff seeks in excess of \$75,000, exclusive of interest and costs; as each plaintiff demanded \$150,000.00 in damages for injuries resulting from the subject accident. (Plaintiffs' Demand Letters are attached hereto as Exhibit D.)

8.

Defendant Waddle Trucking of Mississippi, Inc. has not been served with process; therefore, its consent is not required. *Johnson v. Wellborn*, 418 Fed. Appx. 809, 815 (11th Cir. 2011) ("The requirement that there be unanimity of consent in removal cases with multiple defendants does not require consent of defendants who have not been properly served.").

9.

The undersigned has read this notice of removal, and to the best of the undersigned's knowledge, information, and belief, formed after reasonable inquiry, it is well-grounded in fact; is warranted by existing law; and is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

WHEREFORE, this notice of removal having been filed, said action shall proceed in the United States District Court for the Northern District of Georgia, Atlanta Division, and no further proceedings shall be held in said case in the State Court of Dekalb County.

STONE KALFUS LLP

/s/ Matthew P. Stone

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Attorneys for Defendants

National Casualty Company and

Waddle Trucking of Mississippi, Inc.

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CERTIFICATE OF SERVICE

This is to certify that I have this date served the foregoing *Notice of Removal* to the Clerk of Court using the CM/ECF system which will automatically send electronic mail notification of such filing to counsel of record who are CM/ECF participants and mailed by United States Postal Service, first-class, postage prepaid, a paper copy of the same document to counsel of record who are non-CM/ECF participants. Counsel of record is:

Johnny G. Phillips, Esq.
Christopher N. Reilly, Esq.
Law Office of Johnny Phillips, PC
12 Jackson Street
Newnan, GA 30263

This 30th day of March, 2023.

/s/ Matthew P. Stone

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Georgia Bar No. 684513

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